

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

FERNANDO MOTTA MORAES,

Defendant.

22-CV-8343 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

Presently before the Court is the SEC's motion for entry of a proposed consent judgment against Defendant Fernando Motta Moraes. One paragraph of Mr. Moraes' consent agreement reads as follows:

As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant . . . will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis.

Consent Agmt. ¶ 11. The SEC is hereby directed to file a letter, on or before October 18, 2022, explaining (1) the purpose and necessity of such a provision, and (2) why it is not a prior restraint on speech that infringes on Mr. Moraes' First Amendment rights. *See SEC v. Novinger*, 40 F.4th 297, 308 (5th Cir. 2022) (Jones, J., concurring) (noting, with respect to an identical "no-deny" provision in a consent agreement, that "[a] more effective prior restraint is hard to imagine.").

Should Mr. Moraes' counsel wish to respond to that letter, they may do so within one week of the SEC's filing.

SO ORDERED.

Dated: October 6, 2022
New York, New York



Ronnie Abrams
United States District Judge